

**MINUTES OF THE  
LAND RECLAMATION TELECONFERENCE COMMISSION MEETING**

February 27, 2006

1:00 p.m.

Chairman, Jim DiPardo called the meeting to order at 1:00 p.m., at the Missouri Department of Natural Resources, 1738 East Elm Street, Jefferson City, Missouri. A roll call of the Commissioners was taken with all in attendance. Following roll call Mr. DiPardo asked that all participants identify themselves.

**Commissioners Present:** Jim DiPardo; Dr. Gregory Haddock; Nick Matherly; Mimi Garstang, Ed Galbraith, Hugh Jenkins and Bob Ziehmer.

**Staff Present:** Larry Coen; Tom Cabanas; Bill Zeaman; Sara Hayes; Andy Reed; Mike Larsen and Becky Myers

**Others Present:** Harry Bozoian, Attorney General's Office; Steve Rudloff, MLPA; James Kemp, Benton County Stone; Glen and Margaret Ellis, Landowners; Carol Hudak, Brown Sand and Gravel and Larry Resinger, Landowner.

**INDUSTRIAL MINERALS**

**Hearing Request: Brown Sand and Gravel Co., Lodi Quarry and Shook Quarry**

Mr. DiPardo asked Mr. Larry Coen, Staff Director of the Land Reclamation Program (LRP) to brief everyone on the hearing request. Mr. Coen reviewed the discussion that took place at the January Commission meeting. He noted that landowner Larry Resinger expressed concerns with Brown Sand and Gravel Company. According to company representatives the concerns that Mr. Resinger stated had only been made known at the January Commission meeting, the company had no prior knowledge of the problems. It was agreed upon at the January meeting that site visits to the property would be arranged if both parties could come to a mutual agreement.

After the brief update, Mr. Coen asked the parties to address the Commissioners with the issue's progress. Ms. Carol Hudak of Brown Sand and Gravel stated that due to scheduling conflicts the company representatives had been unable to meet with Mr. Resinger, but would do so on March 20<sup>th</sup>. All parties did agree to meet on March 20, 2006, at Mr. Resinger's property to discuss the issues and any possible solutions. All parties will present an update to the Commissioners at the March 23<sup>rd</sup> meeting.

Ms. Garstang mentioned that a water permit issue was discussed at the last meeting and was interested to know if an update on that issue could also be presented at the March 23<sup>rd</sup> meeting. Mr. Galbraith noted that the Water Program staff also attended the site visit with the LRP staff. That report will be presented at the March meeting.

Dr. Haddock made a motion to continue to table Brown Sand and Gravel – Shook Quarry hearing request until the March 23<sup>rd</sup> Commission meeting; Mr. Galbraith seconded the motion. Mr. DiPardo then asked for a roll call: Mr. Dipardo, “yes”; Ms. Garstang, “yes”; Dr. Haddock, “yes”; Mr. Matherly, “yes”; Mr. Galbraith, “yes”; Mr. Ziehmer, “yes”; Mr. Jenkins, “yes”.

The vote was unanimous; motion carried.

### **Hearing Request: Benton County Stone, Inc.:**

There was a discussion amongst the Commissioners and participants as to the timeframe for submitting material to be reviewed by the Commissioners for presentation at a meeting. Mr. DiPardo was concerned that not enough time had been given for the proper review of the material; however, the Commissioners felt that they had enough knowledge to adequately address this agenda item.

Landowner, Mr. Glen Ellis stated that he had concerns regarding the letter from the MO Limestone Producers Association. The cause for concern as stated by Mr. Ellis is that Mr. Steve Rudloff of the MO Limestone Producers Association contacted his legal advisor and that he had not been given enough time to do likewise. Mr. Ellis noted that he believes that his legal counsel should be present or should advise him as to how to proceed. He stated that he would be in favor of tabling the hearing request until his attorney can write an opinion to counter the MO Limestone Producers Association’s attorney’s opinion on this subject.

A lengthy discussion ensued between Mr. Ellis, staff, Commissioners and other phone participants regarding the letter from MO Limestone Producers Association and the issues raised at the last meeting for the hearing request.

Mr. Jenkins raised questions regarding the hearing request and the legal representation that Mr. Ellis mentioned. Therefore, at that time, Mr. Jenkins made a motion to table the hearing request for Benton County Stone until the March 23<sup>rd</sup> Commission meeting; Ms. Garstang seconded the motion. Mr. DiPardo asked for a roll call: Mr. Jenkins, “yes”; Mr. Galbraith, “yes”; Mr. DiPardo, “yes”; Dr. Haddock, “no”; Mr. Matherly, “yes”; Mr. Ziehmer, “yes”; Ms. Garstang, “yes”.

With a 6 “yes” to 1 “no” vote, the motion carried to table the hearing request for Benton County Stone until the March 23<sup>rd</sup> Commission meeting.

### **Order of Rulemaking – Coal Bond Rules**

Mr. Coen briefly introduced the topic. Mr. Larsen made the presentation as a follow-up to the January Commission meeting. The coal bonding rules were published as proposed

rules in the January 3<sup>rd</sup> edition of the Missouri Register. The comment period ran for thirty (30) days and closed on February 2<sup>nd</sup>. During the public comment period Mr. Coen, Mr. Larsen and others met by teleconference with industry to solicit any comments that they may have had or answer any questions. The program did not receive any written comments from industry, but they did receive an e-mail from the Office of Surface Mining that suggested there were several changes that needed to be made to two of the rules; specifically 10CSR40-7.011 and 10CSR40-7.021. The order of rulemaking takes into consideration those changes and makes those changes as noted in the attachments sent to the Commissioners. If the Commission adopts the Order of Rulemaking today (2/27/06), the rules will be filed and then they will be filed with the Secretary of State and on May 3<sup>rd</sup>, “they will take on a life of their own statutorily”; thirty (30) days later they will be published in the Missouri Register and thirty (30) days later they will be published in the Code of Regulations and then they will take effect thirty (30) days after that. Mr. Coen explained the necessity of presenting this topic at this meeting is due to time constraints of rulemaking.

Dr. Haddock made a motion to allow the Land Reclamation Program staff to adopt the language changes of rulemaking for coal bonding as outlined by the memorandum that the Commissioners received; Ms. Garstang seconded the motion. Mr. DiPardo asked for a roll call: Ms. Garstang, “yes”; Mr. Galbraith, “abstained”; Mr. DiPardo, “yes”; Mr. Jenkins, “yes”; Dr. Haddock, “yes”; Mr. Ziehmer, “yes”; Mr. Matherly, “yes”. Motion carried by a 6 to 1 vote in favor.

Mr. Galbraith made a motion to adjourn the meeting; Dr. Haddock seconded the motion. Mr. DiPardo asked for a roll call: Ms. Garstang, “yes”; Mr. Galbraith, “yes”; Mr. DiPardo, “yes”; Mr. Jenkins, “yes”; Dr. Haddock, “yes”; Mr. Ziehmer, “yes”; and Mr. Matherly, “yes”. Motion carried unanimously.

### **Adjournment**

The meeting adjourned at 2:20 p.m.

Respectfully submitted,

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Chairman

